

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed March 23, 2004. At the time of the Office Action, Claims 10-15 were pending in this Application. Claims 1-9 and 16-21 have been cancelled due to an election/restriction requirement. Claims 10-15 were rejected. Claims 10, 12 and 15 have been amended to further define various features of Applicant's invention. Applicant respectfully requests reconsideration and favorable action in this case.

Objections under 37 CFR 1.83(a)

Examiner has objected to the drawings for not showing every feature of the invention specified in the Claims under 37 CFR 1.83(a). Applicant submits that Claim 10 has been amended to remove the actuator element, as this element is not required to distinguish Claim 10 from the prior art. However, Applicant notes that the actuator element is shown in Figure 9 and describe at page 18 of the specification. The grid and alignment of Claim 12 is sufficiently depicted in Figure 11 with elevation difference described at page 25 of the specification. Similarly, the circular aspect of the grid element is also described at pages 25-26 of the specification. Applicant respectfully requests reconsideration and favorable action.

Rejections under 35 U.S.C. §103

Claims 10, 12 and 14-15 were rejected under 35 U.S.C. §103(a) as being unpatentable over Japanese Patent No. 54-70505 filed by Michio Kitajima ("Kitajima") in view of U.S. Patent 5,797,330 issued to Zhengzhong Li ("Li"). Applicant respectfully traverses.

Independent Claim 10, as amended is directed to a rail system for transporting **dual-use vehicles** that includes, among other elements, a plurality of **non-interconnecting rails**.

In order to establish a prima facie case of obviousness, the references cited by the Examiner must disclose all claimed limitations. In re Royka, 490 F.2d 981, 180 U.S.P.Q. 580

(C.C.P.A. 1974). The Kitajima and Li references do not disclose all of the limitations of Independent Claim 10. Neither Kitajima nor Li discloses, teaches, or suggests a rail system of non-interconnecting rails as recited in Independent Claim 10. Quite to the contrary, Kitajima is directed to a "Switching Apparatus" and therefore is an inherently inappropriate reference to the present system, whose track do not intersect. Similarly, Li is directed to a traditional type monorail system utilizing only intersecting tracks (See Figures 2A, 2B, 2C, 4A, 4B, 4C, 5A, 5B, and 11). With respect to Claim 11 and 13, Examiner has cited to the teachings of Renuax, which similarly teaches the use of multiple "common zones" of intersection. (See Figures 16-20).

Further, neither Kitajima nor Li discloses, teaches or suggests a rail system for use with dual use vehicles as claimed. Examiner has claimed that Kitajima is "inherently capable" of use with rail and road way vehicles. Applicants submits, however, that such professed capability is not disclosed, taught, or suggested within Kitajima.

Accordingly, Claim 10 and Claims 12, and 14-15 which depend therefrom, are not rendered obvious by the combination of Kitajima and Li. Applicant respectfully request reconsideration and withdrawal of the rejections to Claims 10, 12 and 14-15 under 35 U.S.C. 103(a).

Claims 11 and 13 were rejected under 35 U.S.C. §103(a) as being unpatentable over the prior art as applied to Claim 10 above, and further in view of U.S. Patent 4,018,410 issued to Charley Renaux ("Renaux"). Applicant respectfully traverses and submits that Claim 11 and 13 depend from Claim, which has been placed in condition for allowance. Applicant respectfully requests reconsideration and withdrawal of the rejections to Claims 11 and 13 under 35 U.S.C. 103(a).

CONCLUSION

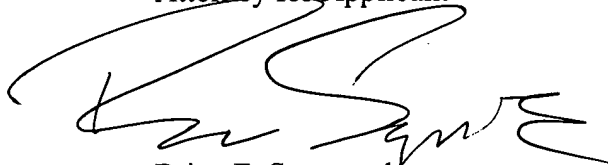
Applicant has now made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. Applicant respectfully requests reconsideration and favorable action in this case.

Applicant encloses a Notification of Extension of Time for one-month and a check in the amount of \$55.00 for the filing fee. Applicant believes there are no additional fees due, however, the Commissioner is hereby authorized to charge any additional fees or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicant's attorney at 512.322.2548.

Respectfully submitted,

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